HIGH COURT OF UTTARANCHAL AT NAINITAL.
Writ Petition No. 76 (MB) 2003

U.P. State Road Transport Corporation,
Through Regional Manager, Nainital. ----Petitioner.

Versus

1. Central Provident Fund Commissioner,
   Bhavhishya Nidhi Bhawan-14, Bhikhaji Complex,
   New Delhi.
2. Regional Provident Fund Commissioner,
   Niranjanpur Post Office Majhra,
   Dehradun PIN Code 248oo1,
3. Regional Provident Fund Commissioner,
   Abdullah Building, Bareilly Road, Haldwani,
4. Branch Manager, Punjab National Bank,
   Haldwani.
5. Branch Manager, Punjab National Bank,
   Tallital, Nainital,
6. Branch Manager, Punjab National Bank,
   Ranikhet (Almora). ---Respondents.

Sri A.N. Sharma, learned counsel for the petitioner.
Sri Ashok Agarwal, learned Standing Counsel for respondent nos. 1 to 3,
None for respondent nos. 4, 5 & 6.

Coram: Hon'ble M.M. Ghildiyal, J.
Hon'ble B.S. Verma, J.

P.C.:

Heard Sri A.N. Sharma, learned counsel for the petitioner and Sri Ashok Agarwal, learned Standing Counsel for the respondent nos. 1 to 3.

The petitioner has filed the present writ petition for the following reliefs:-

i. A writ of certiorari quashing the impugned recovery/ seizure letters dated 22.01.2003 shown as annexure

no.8, 8-A, B, C, D issued by the respondent no.3 to the bankers of the petitioner,

ii. To issue a writ of mandamus in the nature of command commanding the respondent no. 2 & 3 to comply with the unanimous decisions of joint meeting dated 20.09.2002 held in view of the directions contained in the circular dated 05.10.1981 issued by the Central Provident Fund Commissioner, Head Quarter, Delhi shown as annexure no.7,

iii. To stay the effect and operation of impugned recovery/seizure letter dated 22.01.2003 shown as annexure no. 8, 8-A, B, C, D issued by the respondent no.3 to the banker of the petitioner till the final disposal of this writ petition,

iv. To issue any further writ or direction in the nature as this Hon'ble Court may deem fit and proper in the circumstances of this case,

v. To award the cost of the petition in favour of the petitioner against the respondent no. 2 & 3.

Mr. Ashok Agarwal, learned Standing Counsel for respondent nos. 1 to 3 has raised a preliminary objection about the maintainability of the writ petition on the ground that the petitioner has an efficacious alternative statutory remedy against the impugned orders by filing an appeal under Section 7- 1 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

As the petitioner has an efficacious alternative remedy against the impugned orders by filing an appeal under Section

7- 1 of the Act, we decline to exercise our discretionary jurisdiction under Article 226 of the Constitution of India.

However, with a view to protect the interest of the petitioner, who was pursuing the writ petition under the bonafide belief, we deem it proper to direct that on the petitioner's filing an appeal against the impugned orders within a period of three weeks from today, the appellate authority shall entertain the appeal treating the same to have been filed within the prescribed period of limitation and shall consider and decide the same in accordance with law.

The petitioner shall deposit the amount in 36 installments regularly as agreed upon. In case, the petitioner is continuously depositing the installments, the appellate authority shall also take into consideration this fact while deciding the appeal, provided the petitioner continuously deposits the installments.

With the above direction, the writ petition stands disposed of.

(B.S. Verma, J.) **(M.M. Ghildiyal, J.)**

August 31,2006:
NCM: